

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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NOE ARCAUTE,

Petitioner,

Case No. 1:16-cv-1112

v.

Honorable Paul L. Maloney

SHANE JACKSON,

Respondent.

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**ORDER REGARDING LEAVE TO PROCEED IN FORMA PAUPERIS ON APPEAL**

This is a habeas corpus action brought by a state prisoner under 28 U.S.C. § 2254.

On October 16, 2018, the Court entered a judgment denying the petition. (ECF No. 12.) The Court also denied Petitioner a certificate of appealability. (ECF No. 11.) Petitioner now has filed a notice of appeal. Petitioner is seeking leave to proceed on appeal *in forma pauperis*. (ECF No. 17.)

Federal Rule of Appellate Procedure 3(e) provides that the appellant must pay all required fees at the time a notice of appeal is filed with the district court. The docketing fee for a case on appeal is \$500.00. *See* 28 U.S.C. § 1913; 6 Cir. I.O.P. 3; Court of Appeals Miscellaneous Fee Schedule § 1 (Sept. 1, 2018). In addition, under 28 U.S.C. § 1917, a \$5.00 filing fee must be paid to the district court. Petitioner has failed to pay the required fees.

Petitioner was permitted to proceed before this Court *in forma pauperis*. Pursuant to Rule 24(a) of the Federal Rules of Appellate Procedure, he may continue that status on appeal unless this court certifies that his appeal is not taken in good faith. Good faith is judged objectively,

and an appeal is taken in good faith when it seeks review of an issue which is not frivolous.

*Coppedge v. United States*, 369 U.S. 438, 445 (1961).

Detailed reasons for dismissal of the petition were provided in the report and recommendation adopted by the Court. (Report and Recommendation, ECF No. 9.)

The Court reaffirms its decision and finds that the issues on which Petitioner might seek review are frivolous. The Court, therefore, certifies that the appeal is not taken in good faith.

**IT IS ORDERED** that Petitioner is **DENIED** leave to proceed *in forma pauperis* on appeal. If Petitioner wishes to proceed with his appeal, he must pay the \$505.00 appellate fee to the Clerk of this Court within 28 days of this order. *See* 28 U.S.C. §§ 1913, 1917; 6 Cir. I.O.P. 3; Court of Appeals Miscellaneous Fee Schedule § 1 (Dec. 1, 2013). Alternatively, Petitioner may file a motion for leave to proceed *in forma pauperis* in the Court of Appeals pursuant to the requirement set forth in Fed. R. App. P. 24(a)(5).

Dated: January 3, 2019

/s/ Paul L. Maloney

Paul L. Maloney  
United States District Judge